
HOUSE BILL No. 1456

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.6-4.

Synopsis: Cancellation of private mortgage insurance. Allows a homeowner to cancel private mortgage insurance once the homeowner has met certain requirements. Provides procedures for the cancellation of the private mortgage insurance.

Effective: July 1, 2001.

Kuzman

January 11, 2001, read first time and referred to Committee on Financial Institutions.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1456

A BILL FOR AN ACT to amend the Indiana Code concerning consumer law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-4.6-4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]:

4 **Chapter 4. Cancellation of Private Mortgage Insurance**

5 **Sec. 1. As used in this chapter, "current fair market value"**
6 **means the value of the mortgagor's property determined by an**
7 **appraisal conducted not later than ninety (90) days after a**
8 **mortgagor's written request for cancellation of private mortgage**
9 **insurance.**

10 **Sec. 2. As used in this chapter, "lender" means a person who**
11 **makes or holds a residential mortgage loan.**

12 **Sec. 3. As used in this chapter, "private mortgage insurance"**
13 **means insurance paid for by the mortgagor, including any**
14 **mortgage guaranty insurance, against the nonpayment of, or**
15 **default on, a residential mortgage loan, other than mortgage**
16 **insurance made available under the federal National Housing Act,**
17 **38 U.S.C., or title V of the federal Housing Act of 1949. The term**



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1 does not mean lender paid mortgage insurance.

2 Sec. 4. As used in this chapter, "residential mortgage loan"
3 means a loan secured by either:

- 4 (1) a mortgage on residential real property; or
5 (2) certificates of stock or other evidence of ownership interest
6 in and proprietary lease from corporations, partnerships, or
7 other forms of business organizations formed for the purpose
8 of cooperative ownership of residential real property.

9 Sec. 5. As used in this chapter, "servicer" means a person who
10 engages in the collection or remittance for, or the right or
11 obligation to collect or remit for, a lender, mortgagee, note owner,
12 noteholder, or for a person's own account, of payments, interest,
13 principal, and escrow items such as insurance and taxes for
14 property subject to a residential mortgage loan.

15 Sec. 6. A mortgagor has the right to cancel private mortgage
16 insurance in connection with a residential mortgage loan if all of
17 the following have been met:

- 18 (1) The current unpaid principal balance of the mortgage is
19 eighty percent (80%) or less of the current fair market value
20 of the property.
21 (2) The mortgagor has not been:
22 (A) sixty (60) days or longer past due on a mortgage
23 payment during the twelve (12) month period beginning
24 twenty-four (24) months before the date on which the
25 servicer receives the mortgagor's written request for
26 cancellation; or
27 (B) thirty (30) days or longer past due on a mortgage
28 payment during the twelve (12) months preceding the date
29 on which the servicer receives the mortgagor's written
30 request for cancellation.
31 (3) The mortgage was made at least twenty-four (24) months
32 before the receipt of a request for cancellation.
33 (4) The property securing the mortgage loan is occupied by
34 the owner.
35 (5) The request for cancellation is made in writing.

36 Sec. 7. (a) A servicer must provide an annual written notice to
37 the mortgagor currently paying premiums for private mortgage
38 insurance for each residential mortgage loan. The notice must be
39 in 12 point type or greater and appear substantially as follows:

40 "NOTICE OF RIGHT TO CANCEL PRIVATE
41 MORTGAGE INSURANCE

42 If you currently pay private mortgage insurance premiums, you

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1 may have the right under federal law or Indiana law to cancel the
 2 insurance and stop paying premiums. This would reduce your total
 3 monthly payment.

4 You may have the right to cancel private mortgage insurance if the
 5 principal balance of your loan is eighty percent (80%) or less of the
 6 current market value of your home. Under Indiana law, the value
 7 of your property can be determined by a professional appraisal.
 8 You need to pay for this appraisal, but in most cases you will be
 9 able to recover this cost in less than a year if your mortgage
 10 insurance is canceled.

11 If you wish to learn whether you are eligible to cancel this
 12 insurance, please contact us at (enter address and phone number
 13 of servicer).".

14 (b) The notice required by this section must be on its own page,
 15 but a disclosure notice concerning private mortgage insurance
 16 required by federal law may be included on the same page as the
 17 disclosure notice required by this section. The page containing the
 18 notice required by this subdivision may be included with other
 19 disclosures or notices required by federal law that are sent to the
 20 mortgagor.

21 Sec. 8. (a) Not later than thirty (30) days after receipt of a
 22 mortgagor's written request to cancel private mortgage insurance,
 23 a servicer shall:

24 (1) provide a written notice to the insurer to cancel the private
 25 mortgage insurance and written notice to the mortgagor that
 26 a request for cancellation has been sent to the insurer if the
 27 servicer determines that the private mortgage insurance
 28 should be canceled;

29 (2) provide a written response to the mortgagor identifying all
 30 additional information needed from the mortgagor if the
 31 servicer reasonably needs more information from the
 32 mortgagor to determine whether the mortgagor is eligible for
 33 cancellation of private mortgage insurance; or

34 (3) provide a written notice to the mortgagor of the reasons
 35 for the servicer's refusal to cancel the private mortgage
 36 insurance if the servicer determines that the mortgagor does
 37 not meet the requirements for cancellation of private
 38 mortgage insurance.

39 (b) If a lender or any other person involved in the mortgage
 40 transaction receives a written request for cancellation of private
 41 mortgage insurance, the lender or other person shall promptly
 42 forward the mortgagor's request for cancellation to the servicer,

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1 if the servicer is known to the lender or other person. If the
2 servicer is not known to the lender or other person, the lender or
3 other person shall advise the mortgagor to contact the company to
4 which the mortgagor sends the monthly payment.

5 Sec. 9. (a) A lender requiring or offering private mortgage
6 insurance must make available to the borrower or other person
7 paying the insurance premium the same premium payment plans
8 as are available to the lender in paying the private mortgage
9 insurance premium.

10 (b) Any refund or rebate for unearned private mortgage
11 insurance premiums must be paid to the mortgagor or other
12 person actually providing the funds for payment of the premium.

13 (c) A lender or servicer shall not charge the mortgagor a fee or
14 other consideration for cancellation of the private mortgage
15 insurance or for any of the acts required by this section, except that
16 the lender or servicer may recover the cost of an appraisal if the
17 mortgagor elects to have the lender or servicer perform or arrange
18 for the appraisal.

19 Sec. 10. (a) An appraisal under this chapter must be conducted
20 by a licensed or certified real estate appraiser who is reasonably
21 acceptable to the servicer.

22 (b) The appraisal may be conducted at the request of either the
23 lender, mortgagor, or servicer.

24 (c) The mortgagor is responsible for the cost of the appraisal.

25 Sec. 11. This chapter shall not be construed to be inconsistent
26 with the federal Homeowner's Protection Act of 1998, 12 U.S.C.
27 4901 through 12 U.S.C. 4910, within the meaning of "inconsistent"
28 as used in 12 U.S.C. 4908.

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